18659

(17,660.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 546.

GEORGE DEWEY, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE COURT OF CLAIMS.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., MARCH 16, 1900.

1 In the Court of Claims, Term 1889–'9.

GEORGE DEWEY
v.
THE UNITED STATES. } No. 51. Naval Bounty.

I.—*Amended Petition.*

Allowed by the court to be filed *nunc pro tunc* in lieu of original petition (filed July 13, 1899.—J. R.).

To the honorable the Court of Claims:

The claimant, George Dewey, respectfully represents:

1. That he was on the first day of May, 1898, a commodore in the United States Navy, serving on the flagship *Olympia*, a vessel of the United States Navy, in Manila bay, Philippine islands; that on said day an engagement took place between the following vessels of the United States Navy: *Olympia, Baltimore, Boston, Raleigh, Concord, Petrel, McCulloch, Nanshan and Zafiro*, and vessels of war, belonging to the King of Spain, supported by powerful shore batteries and torpedoes, the United States and the Kingdom of Spain being then at war, whereby the following Spanish vessels of war were sunk or otherwise destroyed: *Reina Cristina, Castilla, Don Antonio de Ulloa, General Lezo, Marques del Duero, Argos, Velasco, and Isla de Mindanao.*

2. That the claimant cannot now state exactly the number of men on board the enemy's vessels at the commencement of said engagement; that the number was in excess of the number on board the vessels of the United States; that the enemy's vessels engaged in said action, supported as aforesaid, were of superior force to the vessels of the United States.

3. That § 4635 of the Revised Statutes provides as follows:

"A bounty shall be paid by the United States for each person on board any ship or vessel of war belonging to an enemy at the commencement of an engagement, which is sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States or which it may be necessary to destroy in consequence of injuries sustained in action, of one hundred dollars, if the enemy's vessel was of inferior force, and of two hundred dollars, if of equal or superior force, to be divided among the officers and crew in the same manner as prize money."

4. That in said engagement the following vessels of the enemy were also sunk, but not destroyed, to wit: *Don Juan de Austria, Isla de Cuba*, and *Isla de Luzon;* that said vessels have since been raised by the United States and taken for the use of the United States and are to be employed by the United States as a portion of its navy in Pacific waters; that proceedings are to be begun in the supreme court of the District of Columbia to condemn these vessels as prize

of war, but no determination has been had thereon; that the claimant now makes no claim for bounty under § 4635 of the Revised Statutes on account of said vessels, as he maintains that they are by law subject to condemnation in prize, but will make such claim hereafter if it be held that they are not subject to such condemnation.

5. That the Secretary of the Navy, by a letter dated January 20, 1899, has referred all claims arising under § 4635 aforesaid to this court for adjudication under § 2 of the act of March 3, 1883 (22 Stat. L., 485), as amended by § 13 of the act of March 3, 1887 (24 Stat. L., 507); that no action has been had on this claim in
2&3 Congress or by any of the departments.

6. That the claimant is the sole owner of this claim and the only person interested therein; and no assignment or transfer of this claim, or of any part thereof or interest therein, has been made; that the claimant is justly entitled to the amount herein claimed from the United States, after allowing all just credits and offsets; that the claimant is a citizen of the United States and has at all times borne true allegiance to the Government thereof, and has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government; and the claimant believes the facts as stated in this petition to be true.

7. That by reason of the facts aforesaid a claim against the United States has accrued to the claimant for the sum of ($19,140) nineteen thousand one hundred and forty dollars, for which judgment is prayed.

HERBERT & MICOU,
Attorneys for Claimant.

WASHINGTON, *District of Columbia,* } *ss:*

Benj. Micou, being duly sworn, deposes and says: I am one of the attorneys for the claimant in this case and have a power of attorney to represent him. I have read the above petition, and the matters therein stated are true, to the best of my information and belief.

BENJ. MICOU.

Subscribed and sworn to before me this 28th day of February, 1900.

CHARLES R. HARBAN,
Notary Public.

4 III.—*Letters of Reference of the Navy Department.*

NAVY DEPARTMENT,
WASHINGTON, *January* 20, 1899.

SIR: This department has before it certain claims for bounty filed under the provisions of section 4635 of the Revised Statutes

or sinking or otherwise destroying vessels belonging to Spain on various dates during the period from April 21, when active naval operations against that country were entered upon, until the suspension of hostilities upon the signing of the protocol of August 12, 1898. As these claims involve controverted questions of fact and law, the decision of which will affect a class of cases and will furnish a precedent for the future action of this department in the adjustment of a class of cases, it is, after correspondence with the Attorney General and with his approval, deemed advisable that they be referred to the Court of Claims in order that the matters involved may receive judicial consideration. A number of such claims (particularly described upon the accompanying list of inclosures) are, accordingly, herewith transmitted.

This reference is made under the provisions of section 2 of the "Act to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government," approved March 3, 1883 (22 Stats., p. 485), as amended by section 13 of the "Act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887 (24 Stats., p. 507), and its purpose is to secure, as far as permitted by existing law, an authoritative and final determination by the court of the rights of all parties interested.

Among the questions involved in the claims herewith transmitted are the following:

1. Whether the vessels for the sinking or destruction of which bounty is claimed were of inferior or of equal or superior force to the vessels of the United States engaged, and whether such vessels of the enemy were sunk or destroyed in action or "in consequence of injuries sustained in action," or immediately thereafter "for the public interest," as contemplated in the last clause of section 4635 of the Revised Statutes?

The determination of these questions will fix the rate of bounty to be paid at $200, or $100, "for each person on board" such vessel of the enemy "at the commencement of the engagement," or $50 "for every person * * * on board at the time of such capture," as the case may be.

2. What vessels of the enemy among those sunk or destroyed fall within the statutory provisions authorizing the payment of bounty?

It appears from an examination of the claims in question that the vessels sunk or destroyed were of various classes, ranging from those of the modern armored-cruiser type, on the one hand, through a considerable variety of armed steam and sailing vessels, large and small, all more or less effectively equipped and fitted out for offensive or defensive operations or for auxiliary service. They include armed transports, merchant vessels attempting to run blockade under steam or sail, coasting vessels, tugs, fishing schooners, and river and harbor craft of various kinds. Some of the vessels for which bounty is claimed were manned by a complement of officers and men of the Spanish navy; some had only one or more representatives of the navy or army on board; some were officered and

manned by persons not belonging to the regular navy or army, but enrolled as a part of the naval militia or naval reserve, and so subject to service upon call of the Spanish government; and with respect to others there is uncertainty as to the precise status of their officers and men. Some of the vessels were sunk or destroyed in battle; others at the end of a chase, after little or no resistance; and others again were seized in rivers and harbors and sunk or destroyed because they had been used or were in such condition as to be available for use in the transportation of troops or supplies, or otherwise in aid of the enemy.

3. What vessels of the United States are, in any given case, entitled to share in bounty?

The question whether the provisions of section 4635 are applicable to such vessels of the United States only as participated actively in the destruction of the enemy's vessels, or extend to those within signal distance of the vessel or vessels so participating, is doubtless involved in this branch of the subject; but, whether this be true or not, it is evident that the difficulties enumerated under the second question again arise here. Upon various occasions during the war, when vessels of the enemy were destroyed, there were present and either actively participating or within signal distance vessels of the regular Navy of the United States; "converted" vessels, of which the *Gloucester* may be mentioned as a type; chartered vessels, such as the *St. Paul;* vessels of the revenue-cutter, Coast Survey, and light-house service; dispatch-boats, transports, colliers, supply and hospital vessels, etc. While the applicability of section 4635 of the Revised Statutes to some of these vessels is entirely clear, it is not so as to others, and equitable distribution of bounty cannot be made until the rights of all claiming to share therein shall have been determined.

It may be proper to add that the attitude of the department toward these claims is not in any sense one of hostility, it being considered that the claimants belong to a meritorious class upon whom the Government had by statute directed the bestowal of bounty for the performance of patriotic service. The department does not, therefore, desire to antagonize these claims, but seeks merely, by the reference herein made, to secure the judicial ascertainment of the rights of all parties concerned in order that the nation's bounty may be promptly and equitably dispensed.

Entertaining these views it is requested that such early procedure in the matter may be had as the court may find practicable.

It is not supposed that the papers herewith transmitted cover all the points which may arise in connection with the cases to which they relate, and the indication of the court with respect to any further information desired, which the department may possess or be able to obtain, will meet with prompt attention. Should it appear to the court upon examination of any of the claims herein mentioned that in transmitting them reference should have been made to other provisions of law, or that they should be submitted to some other tribunal, this department requests to be so advised in order that appropriate action may be taken without delay.

The Attorney General has been advised of this reference, and requested to take such action in connection therewith as he may deem proper in the presentation of these claims to the court.

I have the honor to be, very respectfully,

(Signed) JOHN D. LONG, *Secretary.*

The chief clerk, Court of Claims.

List of Papers Forwarded to Court of Claims with Department's Letter, January 20, 1899.

File number.	Vessel making claim.	Subject.
4455–98	U. S. F. S. New York	Spanish fleet, Santiago, Cuba, July 3, 1898.
4517–98	U. S. S. Concord	Manila bay, May 1, 1898.
6124–98	U. S. S. Manning	Spanish fleet, Santiago, Cuba, July 3, 1898.
5078–98	U. S. T. B. Ericsson	Surrender Spanish fleet, Santiago, Cuba, July 3, 1898.
5488–98	U. S. S. Yale	Surrender, Santiago, Cuba, July 16, 1898.
5458–98	U. S. S. Massachusetts	Prize money and bounty sinking Reina Mercedes, harbor Santiago, evening July 4, 1898.
5629–98	U. S. S. McCulloch	Manila bay, May 1, 1898.
5642–98	U. S. B. S. Texas	Almirante, Oquendo, Infanta Maria Teresa, Vizcaya, Cristobal Colon, Pluton, Furor, Reina Mercedes, July 3 and 4, 1898.
5642–98	U. S. B. S. Texas	Vessels taken by terms of capitulation of Santiago and eastern province of Cuba.
5690–98	U. S. S. Hist	Bounty for sinking of Estrella, disabling gunboat Cuba Espenda and torpedo boat Delgad, sinking of sloop with soldiers, burning armed vessels, all in engagement against superior force, harbor Manzanilla, Cuba, June 30, 1898.

Filed January 24, 1899.
J. R.

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NAVY DEPARTMENT,
WASHINGTON, *April* 27, 1899.

SIR: Referring to this department's letter of the 20th of January last, transmitting certain claims for bounty under the provisions of section 4635 of the Revised Statutes, for sinking or otherwise destroying vessels belonging to Spain on various dates during the period from April 21 to August 12, 1898, I enclose herewith, for the consideration of the court, a number of additional claims of like character, particularly described upon the list hereto appended.

Very respectfully, CHAS. H. ALLEN,
Acting Secretary.

The chief clerk, Court of Claims.

List of Papers Forwarded to Court of Claims with Department's Letter of April 27, 1899.

File number.	Vessel making claim.	Subject.
6809-98	.....	Admiral George Dewey, U. S. N., reports that in his judgment, "taking into consideration the guns at Corregidor, El Fraile, and other forts at entrance of bay, and those at Manila and Cavite, which fired upon our ships continuously during the engagement of May 1, the enemy's force was unquestionably superior to our own."
6858-98	U. S. S. Baltimore.....	Capture and destruction of Spanish fleet and property in Manila bay, May 1, 1898.
7592-98	U. S. S. Raleigh.....	Destruction and capture of enemy's property by the ships of the Asiatic squadron, May 1, 1898.
4516-98	U. S. S. Boston.....	Naval operations at Manila, May 1, 1898. Corrected list.
7343-98	U. S. S. Petrel.....	Destruction of Spanish squadron and shipping in Manila bay on and after May 1, 1898.
6397-98	U. S. S. Baltimore.....	Corrected list of marine guard of Baltimore, May 1, 1898, including 20 per cent. increase of pay.
16-99	U. S. S. Baltimore.....	Individual claim of Pay Inspector Edward Bellows, as a participant in the battle of Manila bay, May 1, 1898.
1247-99	.....	Commanding officer U. S. S. Resolute submits claim that his vessel was "not only within signal distance, but also an armed vessel under the fire of the Spanish forts and fleet" in the action of July 3, 1898, off Santiago, and claims that the Resolute is entitled to share in bounty for destruction of Spanish vessels.
1665-99	U. S. S. Resolute.....	Letter of Commander J. G. Eaton, March 8, 1899, with press copy of department's reply thereto, relative to claim of Resolute to share in bounty awarded for destruction of Spanish fleet in the battle of Santiago.
7292-98	U. S. S. Wasp.....	Letter dated October 12, 1898, from Lieut. Aaron Ward, lately commander U. S. S. Wasp, transmitting original and amended copy of prize list for action at Nipe bay, July 21, 1898. Press copy of department's reply appended.
7751-98	.....	Letter of Lieutenant Ward, November 2, 1898, explaining that last-mentioned correspondence relates to claim of the Wasp for the sinking of the Spanish cruiser Don Jorge Juan.
6512-98	U. S. S. Annapolis.....	Capture and destruction of the Spanish cruiser Jorge Juan at Nipe bay, Cuba, July 21, 1898.
6266-98	U. S. S. Leyden.....	Sinking of the Spanish gunboat Jorge Juan, July 21, 1898, Nipe bay, Cuba.
901-99	U. S. S. Osceola.....	Destruction of Spanish vessels at Manzanillo, Cuba, July 18, 1898.
5883-98	U. S. S. Helena.....	Destruction of vessels of war in the harbor of Manzanillo, Cuba, July 18, 1898. Vessels destroyed: Ponton Maria, gunboats Cuba Espanola, Guantanamo, Guardian, Delgado Parejo, Estrella, and one, name unknown, similar to Cuba Espanola.

Filed April 28, 1899.
J. R.

NAVY DEPARTMENT,
WASHINGTON, *May* 25, 1899.

SIR: Referring to this department's letter of the 20th of January last, transmitting certain claims for bounty under the provisions of section 4635 of the Revised Statutes, for sinking or otherwise destroying vessels belonging to Spain on various dates during the period from April 21 to August 12, 1898, I enclose herewith, for the consideration of the court, the list of the officers and men on board the U. S. F. S. *Olympia*, May 1, 1898, the date of the destruction of the Spanish fleet and the capture of Cavite.

Very respectfully, JOHN D. LONG, *Secretary.*

The chief clerk, Court of Claims.

Filed May 26, 1899.
J. R.

7 IV.—*Findings of Fact, Conclusions of Law, and Opinion. Filed by the Court February* 26, 1900.

This case having been heard by the court, upon the evidence the facts are found as follows:

I.

On the 1st day of May, 1898, an engagement took place between the following vessels of the United States Navy: *Olympia, Baltimore, Boston, Raleigh, Concord, Petrel, McCulloch, Nanshan* and *Zafiro,* and the following vessels of war belonging to the King of Spain, supported by shore batteries, submarine mines, and torpedoes, the United States and the Kingdom of Spain being then at war: *Reina Cristina, Castilla, Don Antonio de Ulloa, General Lezo, Marques del Duero, Argos, Velasco, Isla de Mindanao, Don Juan de Austria, Isla de Cuba, Isla de Luzon* and *Manila.*

II.

The following Spanish vessels of war were then and there destroyed by the vessels of war of the United States: *Reina Cristina, Castilla, Don Juan de Ulloa, General Lezo, Marques del Duero, Argos, Velasco,* and *Isla de Mindanao,* and two torpedo boats.

III.

The following vessels, *Don Juan de Austria, Isla de Cuba,* and *Isla de Luzon,* being disabled and put out of action in the same engagement, were captured, and having since been floated and repaired by the United States, are now a part of the navy thereof. The *Manila* was captured in the same engagement.

IV.

The *Olympia* had a protective deck of from 2 to 4¾ inches in thickness, and the following armor: 8-inch barbettes, 4½ inches of nickel steel; 8-inch turrets, 6 inches of nickel, harveyized; conning tower, 5 inches of nickel steel; 5-inch sponsons, 4 inches of nickel steel; 6-pounder sponsons, 2 inches of nickel steel.

The *Baltimore* had a protective deck from 4 to 2½ inches thick; *Boston,* protective deck 1½ inches thick; *Raleigh,* protective deck 2½ to 1 inch thick.

The *Concord* and *Petrel* were without protective deck or armor.

The *McCulloch* was a revenue cutter, also entirely unprotected, and the *Nanshan* and *Zafiro,* merchant vessels used for provisions and coal, were also unprotected.

V.

The following is a statement of the guns composing the battery of each of the American vessels:

Vessel.	Number of guns.	Caliber or kind of gun.
Olympia	4	8″ B. L. R.
	10	5″ R. F.
	14	6-pdr. R. F.(cal. 2″.25).
	7	1-pdr. R. F.(cal. 1″.46).
	1	Machine gun.
	4	Torpedo tubes.
Baltimore	4	8″ B. L. R.
	6	6″ B. L. R.
	4	6-pdr. (2″.25).
	2	3-pdr. (1″.85).
	2	1-pdr. (1″.46).
	4	37 mm. (1″.46).
	1	3″.
	2	Machine guns.
Raleigh	1	6″ B. L. R.
	10	5″ R. F.
	8	6-pdr. (2″.25).
	4	1-pdr. (1″.46).
	1	3″.
	1	Machine gun.
Boston	2	8″ B. L. R.
	6	6″ B. L. R.
	2	6-pdr. (2″.25).
	2	3-pdr. (1″.85).
	2	47 mm. (1″.85).
	2	37 mm. (1″.46).
	2	1-pdr. (1″.46).
	1	Machine gun.
Concord	6	6″ B. L. R.
	2	6-pdr. (2″.25).
	2	3-pdr. (1″.85).
	1	1-pdr. (1″.46).
	2	37 mm. (1″.46).
	2	Machine guns.
Petrel	4	6″ B. L. R.
	2	3-pdr. (1″.85).
	1	1-pdr. (1″.46).
	2	37 mm. (1″.46).
	2	Machine guns.

The *Nanshan* and *Zafiro* were supplied with small guns taken from the other vessels and included in the above table. The battery of the *McCulloch* consisted of four 6-pounder R. F. guns and the two above-mentioned 3-inch guns from the *Baltimore* and *Raleigh*.

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VI.

The following is a description of the vessels of the enemy engaged in the battle:

Isla de Cuba. Isla de Luzon.

Length, 56.4 m. (185 ft.); breadth, 19.14 m. (65.29 ft.); depth of hold, 4.8 m. (15.74 ft.); extreme draught, 3.8 m. (12.46 ft.); displacement, 1,045 tons; H. P., 2,200 (*Isla de Cuba*); H. P., 2,000 (*Isla de Luzon*); 2 screws; maximum speed, 14 knots (*Isla de Cuba*), 14.14 knots (*Isla de Luzon*); coal capacity, 200 tons; radius of action at economical speed, 2,000 miles.

Armor protection.—Protective deck, 62 mm. (2.44 in.).

Armament.—4 Hontoria rifles, 12 cm. (4.72 in.); 2 Hotchkiss rapid-fire, 57 mm. (2.24 in.); 2 Hotchkiss revolving cannon, 37 mm. (1.46 in.); 1 mitrailleuse, 11 mm. (.43 in.); 1 rapid-fire, 37 mm. (1.46 in.). Torpedo tubes, 3. Complement, 156 for each ship; total for the two, 312.

Reina Cristina.

Length, 86.3 m. (283.1 ft.); breadth, 13.2 m. (43.31 ft.); depth of hold, 8.35 m. (27.39 ft.); extreme draught, 6.6 m. (21.65 ft.); displacement, 3,520 tons; H. P., 3,970; 1 screw; maximum speed, 13.98 knots; coal capacity, 668.8 tons; radius of action at economical speed, 3,376 miles.

Armament.—6 Hontoria rifles, 16 cm. (6.3 in.); 3 Nordenfeldt, 57 mm. (2.24 in.); 2 Nordenfeldt, 42 mm. (1.65 in.); 2 Hontoria rifles, 7 cm. (2.75 in.); 6 Hotchkiss revolving cannon, 37 mm. (1.46 in.); 2 mitrailleuses, 11 mm. (.43 in.).

Torpedo tubes, 5.

Complement, 352 (total).

Castilla.

Length, 72 m. (236.2 ft.); breadth, 13.56 m. (44.49 ft.); depth of hold, 8.2 m. (23.9 ft.); extreme draught, 7.5 m. (24.6 ft.); displacement, 3,260 tons; H. P., 2,600; 1 screw; maximum speed, 13 knots; coal capacity, 417 tons; radius of action at economical speed, 3,690 miles.

Armament.—4 Krupp, 13 cm. (5.12 in.); 2 Krupp, 12 cm. (4.72 in.); 2 Krupp, 12 cm. (4.72 in.); 2 Krupp, 8.7 cm. (3.43 in.); 4 Krupp, 7.5 cm. (2.95 in.); 4 Nordenfeldt, 42 mm. (1.65 in.); 4 Hotchkiss revolving cannon, 37 mm. (1.46 in.); (?) mitrailleuse.

Torpedo tubes, 2.

Complement, 349 (total).

Don Antonio de Ulloa.

Length, 64 m. (209.9 ft.); breadth, 9.75 m. (31.98 ft.); depth of hold, 5.33 m. (17.48 ft.); extreme draught, 4.45 m. (14.6 ft.); displacement, 1,160 tons; H. P., 1,523; 1 screw; maximum speed, 12.5 knots; coal capacity, 195 tons; radius of action at economical speed, 2,640 miles.

Armament.—4 Hontoria, 12 cm. (4.72 in.); 2 Hontoria, 7 cm. (2.76 in.); 2 rapid-fire, 57 mm. (2.24 in.); 4 Hotchkiss revolving cannon, 37 mm. (1.46 in.); 1 mitrailleuse, 11 mm. (.43 in.).

Torpedo tubes, 2.

Complement, 159 (total).

Don Juan de Austria.

Length, 63.83 m. (209.4 ft.); breadth, 9.73 m. (31.92 ft.); depth of hold, 5.38 m. (17.65 ft.); extreme draught, 4.6 m. (15.09 ft.); displacement, 1,159 tons; H. P., 1,500; 1 screw; maximum speed, 14.5 knots; coal capacity, 250 tons; radius of action at economical speed, 3,226 miles.

Armament.—4 Hontoria rifles, 12 cm. (4.72 in.); 2 Hontoria rifles, 7 cm. (2.76 in.); 2 Nordenfeldt, 42 mm. (1.65 in.); 4 Hotchkiss revolving cannon, 37 mm. (1.46 in.); 1 mitrailleuse, 11 mm. (.43 in.).

Torpedo tubes, 2.

Complement, 179 (total).

General Lezo.

Length, 48 m. (157.4 ft.); breadth, 7.79 m. (25.55 ft.); depth of hold, 4.19 m. (13.74 ft.); extreme draught, 3.4 m. (11.15 ft.); displacement, 520 tons; H. P., 500; 2 screws; maximum speed, 9.5

knots; coal capacity, 70 tons; radius of action at economical speed, 1,284 miles.

9 *Armament.*—2 Hontoria, 12 cm. (4.72 in.); 1 Hontoria, 9 cm. (3.54 in.); 2 Nordenfeldt mitrailleuse, 25 mm. (.98 in.); 1 mitrailleuse, 11 mm. (.43 in.).

Torpedo tubes, 1.

Total complement, 115.

Marques del Duero.

Length, 48 m. (157.4 ft.); breadth, 7.8 m. (25.59 ft.); depth of hold, 4.1 m. (13.45 ft.); extreme draught, 2.5 m. (8.20 ft.); displacement, 500 tons; H. P., 550; 2 screws; maximum speed, 10 knots; coal capacity, 90 tons; radius of action at economical speed, 1,695 miles.

Armament.—1 Pallisser, 16 cm. (6.3 in.); 2 bronze rifled, 12 cm. (4.72 in.); 1 Nordenfeldt mitrailleuse, 11 mm. (.43 in.).

Torpedo tubes, —.

Total complement, 96.

Velasco.

Length, 64.05 m. (210.06 ft.); breadth, 9.75 m. (31.98 ft.); depth of hold, 5.53 m. (18.14 ft.); extreme draught, 4.05 m. (13.28 ft.); displacement, 1,152 tons; H. P., 1,600; 1 screw; maximum speed, 14.08 knots; coal capacity, 200 tons; radius of action at economical speed, 2,800 miles.

Armament.—3 Armstrong, 15 cm. (5.91 in.); 2 Hontoria rifles, 7 cm. (2.76 in.); 2 Nordenfeldt mitrailleuse, 25 mm. (.98 in.).

Torpedo tubes, —.

Total complement, 145.

Argos (Comision Hidrografica de Filipinas, Hydrographic Commission of the Philippines).

Length, 45.06 m. (147.6 ft.); breadth, 6.75 m. (22.14 ft.); depth of hold, 5.75 m. (18.86 ft.); extreme draught, 3.5 m. (11.48 ft.); displacement, 508 tons; H. P., 65 (natural draft); 1 screw; maximum speed, 8 knots; coal capacity, 135 tons; radius of action at economical speed, 7,776 miles.

Armament.—1 Hontoria rifle, 9 cm. (3.54 in.).

Total complement, 87.

Manila (transport).

Length, 68.95 m. (226.22 ft.); breadth, 9.1 m. (29.85 ft.); depth of hold, 5.63 m. (18.47 ft.); extreme draught, 4.04 m. (13.25 ft.); displacement, 1,900 tons; H. P., 750; 1 screw; maximum speed, 9 knots; coal capacity, 204 tons; radius of action at economical speed, 1,248 miles.

Armament.—2 bronze, 42 mm. (1.65 in.).

Total complement, 77.

VII.

The enemy's vessels were also supported by land batteries, the caliber, kind, and number of the guns and their situation being shown by the following table:

BOCA GRANDE.

Class.	Location.	Number of guns.	Weight of fire.
			Pounds.
6″.3 M. L. R.	Below P'ta Restinga	3	300
6″ B. L. R.	Caballo island	3	240
4″.72 B. L. R.	El Fraile rock	1	50
4″.72 B. L. R.	El Fraile rock	2	76
Total		9	666

BOCA CHICA.

			Pounds.
8″ M. L. R.	Corregidor island	3	540
7″ M. L. R.	Punta Gorda	3	270
6″.3 B. L. R.	Punta Lassissi	2	128
Total		8	938

CAVITE.

			Pounds.
6″.3 M. L. R.	Fort San Felipe	2	130
5″.87 B. L. R.	Fort Sangley	2	186
4″.72 B. L. R.	Canacoa	1	50
6″.3 M. L. R.	Cavite Point redoubt	1	100
Total		6	466

10 MANILA.

			Pounds.
9″.45 B. L. R.	Ermita battery	2	635
9″.45 B. L. R.	Under south bastion	1	317.5
9″.45 B. L. R.	Under north bastion	1	317.5
8″.52 M. L. R.	Under south bastion	4	400
8″.52 M. L. R.	In center bastion	5	500
6″.34 M. L. R.	In south bastion	9	522
6″.34 M. L. R.	In north bastion	5	290
6″.34 M. L. R.	South mole redoubt	2	116
5″.87 B. L. R.	Under west wall	2	124
5″.51 B. L. R.	Do.	4	168
4″.72 B. L. R.	South mole redoubt	2	100
4″.72 M. L. R.	River bastion	5	115
4″.72 M. L. R.	N. W. lunette	3	69
3″.09 M. L. R.	Do.	2	19
3″.09 M. L. R.	South bastion	4	38
3″.09 M. L. R.	Under west wall	2	19
Total		53	3,750

IX.

The enemy's vessels were also supported by mines and torpedoes in the entrance to Manila bay and in the bay itself, and some of those in the bay exploded during the action.

X.

The number of officers and men on the vessels of the United States during the battle was 1,836.

The official complement of the Spanish vessels taking part in this battle was as follows:

Reina Cristina	352	Argos	87
Castilla	349	Velasco	147
Don Juan de Austria	179	Isla de Mindanao	120
Don Antonio de Ulloa	159	Manila	77
Isla de Cuba	156	Two torpedo boats	44
Isla de Luzon	156		2,037
Marques del Duero	96		
General Lezo	115		

The following Spanish vessels, *Reina Cristina, Don Juan de Austria, Isla de Cuba, Isla de Luzon,* and *Marques del Duero,* whose total official complements, as above stated, amounted to 939, actually had on board, at the commencement of this action, 1,875 men. The other vessels named had their complements, 1,054 men. The actual number of men on the two torpedo boats cannot be satisfactorily ascertained, but estimated according to the complement of similar United States vessels, the number is 22 each. The total number of men on board the enemy's fleet was 2,973.

XI.

The total number of men on board the vessels stated in finding II to have been destroyed was, at the commencement of the action, 1,914.

XII.

Taking into consideration the guns at Corregidor, El Fraile, and other forts at the entrance of the bay and those at Manila and Cavite, and the torpedoes and mines in the bay and entrance to it, the enemy's force was superior to the force of the vessels of the United States.

Excluding shore batteries and submarine defenses, the American vessels and armaments were superior in force to the Spanish vessels.

Conclusion of Law.

Upon the foregoing findings of fact the court decides as a conclusion of law that the claimant is entitled to recover a judgment for the sum of nine thousand five hundred and seventy dollars ($9,570).

WELDON, J., delivered the opinion of the court:

On the 1st day of May, 1898, the "United States naval force on Asiatic station," under the command of Commodore George Dewey,

in the prosecution of the war declared by the United States on the 25th day of April, 1898 (as dating from the 21st of April, 1898), against the Kingdom of Spain, encountered the Spanish squadron in the waters of Manila bay off the coast of the island of Luzon, and in an engagement lasting from 5.15 a. m. until 12.30 p. m. the United States forces succeeded in destroying and capturing the whole of the Spanish fleet and the achievement of a victory having scarcely a parallel in the annals of naval warfare. As a result of that victory the honorable the Secretary of the Navy addressed a communication to this court, under the provisions of the act of March 3, 1883, entitled "An act to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government" (22 Stat. L., 485), as
11 amended by section 13 of the act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887 (24 Stat. L., 507), embodying the following questions:

"1. Whether the vessels for the sinking or destruction of which bounty is claimed were of inferior or of equal or superior force to the vessels of the United States engaged, and whether such vessels of the enemy were sunk or destroyed in action or 'in consequence of injuries sustained in action,' or immediately thereafter 'for the public interest,' as contemplated in the last clause of section 4635 of the Revised Statutes.

"The determination of these questions will fix the rate of bounty to be paid at $200, or $100, 'for each person on board' such vessel of the enemy 'at the commencement of the engagement,' or $50 'for every person * * * on board at the time of such capture,' as the case may be.

"2. What vessels of the enemy among those sunk or destroyed fall within the statutory provisions authorizing the payment of bounty.

"3. What vessels of the United States are, in any given case, entitled to share in bounty."

Embraced in the communication by the Secretary are the following paragraphs:

"It may be proper to add that the attitude of the department toward these claims is not in any sense one of hostility, it being considered that the claimants belong to a meritorious class upon whom the Government had by statute directed the bestowal of bounty for the performance of patriotic service. The department does not, therefore, desire to antagonize these claims, but seeks merely, by the reference herein made, to secure the judicial ascertainment of the rights of all parties concerned in order that the nation's bounty may be promptly and equitably dispensed.

"Entertaining these views it is requested that such early procedure in the matter may be had as the court may find practicable."

Accompanying the foregoing communication the Secretary transmitted, in pursuance of the statute, all papers in his department applicable to the subject-matter.

In pursuance of such reference, the claimant filed a petition, in which it is in substance alleged that on the 1st of May, 1898, an engagement took place between the ships of the United States under his command and vessels of war belonging to the Kingdom of Spain; and as a result of such engagement a number of Spanish vessels of war were sunk or otherwise destroyed; that the number of men on board of the enemy's vessels at the commencement of the engagement was in excess of the number on board of the American vessels; that in said engagement the enemy's ships were supported by powerful shore batteries and torpedoes, and that the enemy's vessels, supported as aforesaid, were of superior force to the vessels of the United States. It is also averred that some of the vessels belonging to the enemy were not destroyed, and have since been repaired and taken into the service of the United States, and for such vessels no compensation is sought in this proceeding.

The petition concludes with a prayer for a judgment under the thirteenth section of said last-named act upon the ground that the claimant has a legal claim under the provision of section 4635, of the Revised Statutes.

The claimant having averred the right of a judgment under the thirteenth section of the act of 1887 (*supra*), it becomes necessary, as a preliminary question, to determine the right of the claimant to such judgment, in addition to a report of the facts and opinion of the court to the department under the act of March 3, 1883 (*supra*).

The thirteenth section of the act of 1887 provides * * * "If it shall appear to the satisfaction of the court, upon the facts established, that it has jurisdiction to render a judgment or decree thereon under existing law, or under the provision of this act, it shall proceed to do so, giving to either party such opportunity for hearing as in its judgment, justice shall require, and report its proceedings therein to either House of Congress or to the department by which the same was referred to this court."

The claim which is made in this proceeding is based upon section 4635, of the Revised Statutes, the latter part of which is as follows:

"A bounty shall be paid by the United States for each person on board any ship or vessel of war belonging to an enemy at the commencement of an engagement, which is sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States or which it may be necessary to destroy in consequence of injuries sustained in action, of one hundred dollars, if the enemy's vessel was of *inferior force*, and of two hundred dollars, if of equal or *superior force*, to be divided among the officers and crew in the same manner as prize money."

Though many cases have been prosecuted under the act of the 3d of March, 1883, and the act of 3d of March, 1887, since
12 the passage of the last act, in which the claimant has sought a final judgment, the court has not in the exercise of its plenary judicial function determined the rights of the claimant except as advisory, either of Congress or the department.

The purpose of the thirteenth section is to settle and adjust contro-

versies and claims upon the basis of the legal right to recover, where that can be done, leaving the parties subject only to the jurisdiction of this and the Supreme Court. The act of the 3d of March, 1887, provides jurisdiction in this court in "all claims founded upon the Constitution of the United States or any law of Congress."

Applying the facts found to the thirteenth section of the act of March, 1887 (*supra*), and to the first clause of said act defining the jurisdiction of this court, "it appears to the satisfaction of the court" that the claimant is entitled to recover a judgment in this proceeding for the amount which, from our construction of section 4635, of the Revised Statutes, we may determine is due him as the commander of the United States naval forces in what is known as the battle of Manila bay.

The issue in this case is limited in its range as a judicial inquiry to a construction of a statute of the United States which, though of long standing, has never been judicially construed by the Supreme Court to the extent of settling by an authoritative construction the exact question involved in this inquiry.

This court is therefore required to perform the duty of determining the purpose and intent of the legislature in the enactment of the statute under which the claim is made, unaided by judicial determination by the court of ultimate interpretation and decision.

The first inquiry addressed to the court by the honorable the Secretary of the Navy is as follows:

"1. Whether the vessels for the sinking or destruction of which bounty is claimed were of inferior or of equal or superior force to the vessels of the United States engaged, and whether such vessels of the enemy were sunk or destroyed in action or 'in consequence of injuries sustained in action,' or immediately thereafter 'for the public interest,' as contemplated in the last clause of section 4635 of the Revised Statutes?"

By reference to the findings it will be seen that that question is answered in two forms not contradictory of each other, but in order to meet the difference in the construction of the statute on the part of the claimant and the defendants. It is shown that—quoting the substance of the findings—that leaving aside shore batteries and submarine defenses, the American ships and armament were superior in force to the Spanish ships and armament, but taking into consideration the guns at Corregidor,-El Fraile, and other forts at the entrance of the bay, and those at Manila and Cavite, and the torpedoes and mines in the bay and entrance to it, the enemy's force was superior to the force of the vessels of the United States.

The second inquiry propounded by the communication of the Secretary of the Navy is as follows: "What vessels of the enemy among those sunk or destroyed fall within the statutory provisions authorizing the payment of bounty?" An answer to this question may be found in the findings of fact preceding this opinion and upon which it is based.

The third inquiry is as follows: "What vessels of the United States are, in any given case, entitled to share in bounty?"

In connection with that inquiry the communication states:

"The question whether the provisions of section 4635, are applicable to such vessels of the United States only as participated actively in the destruction of the enemy's vessels, or extend to those within signal distance of the vessel or vessels so participating, is doubtless involved in this branch of the subject; but, whether this be true or not, it is evident that the difficulties enumerated under the second question again arise here. Upon various occasions during the war, when vessels of the enemy were destroyed, there were present and either actively participating or within signal distance vessels of the regular Navy of the United States; 'converted' vessels, of which the *Gloucester* may be mentioned as a type; chartered vessels, such as the *St. Paul;* vessels of the revenue cutter, Coast Survey, and light-house services; dispatch-boats, transports, colliers, supply and hospital vessels, etc. While the applicability of section 4635 of the Revised Statutes to some of these vessels is entirely clear, it is not so as to others, and equitable distribution of bounty cannot be made until the rights of all claiming to share therein shall have been determined."

Having determined that the claimant is entitled to a judgment under the thirteenth section of the act of March 3, 1887 (*supra*), as the inquiry propounded in the third interrogatory does not properly arise in this proceeding, and as we are advised that the question arises in other cases pending in this court coming within the reference of the Secretary of the Navy, we reserve an answer to interrogatory third until the trial and decision of a case in which the question is properly involved. The communication of the Secretary of the Navy being applicable to the other cases, and other counsel appearing in those cases, it is proper that we should confine the opinion in this case to the limits of the legal controversy established by the facts of the present proceeding.

13

The only question about which there is any contention is whether the crews of the American ships are entitled to the sum of $100, upon the theory that in legal contemplation the vessels of the United States were of superior force to those of the Spanish fleet, or whether they are entitled to $200 each, upon the theory that in law the vessels of the United States were inferior in force to the Spanish vessels. It is contended on the part of the claimants that the vessels of the United States were inferior in force to the Spanish vessels, while it is contended by the defendants that they were of superior force. If the contention is to be determined by adding to the Spanish force of the vessels the batteries on shore, the mines and torpedoes of Manila bay, then the Spanish vessels, as constituting a condition, were superior to the force of the American vessels. As has been said, no decision of the Supreme Court has determined the exact question as presented by this record, and which constitutes the issue in this proceeding.

In the examination of the case we have most carefully considered the decision upon which the counsel for the claimant predicate the theory that the environment of the Spanish vessels is to be included

in the determination of the question as to the relative force of the respective fleets.

The case of the United States against Farragut, decided by the Supreme Court of the United States and reported in 22 Wallace, 406, was an appeal from the court of the District of Columbia in a case growing out of the capture of New Orleans by Admiral Farragut in the year 1862.

It is said in substance, in the statement of the case in the Supreme Court of the United States, that the result of the reduction of the forts was the capture of large number of vessels, coal, and other property. All this property was appraised at the time by a board of officers duly appointed for that purpose. But there being no district court in the eastern district of Louisiana open at that time, and much of the property steamers unfit to be sent to sea, and much of it being necessarily used by the Army and Navy of the United States in their further operations in the Gulf and Mississippi river, none of it was sent to be condemned, but appraised at the time of the capture.

Congress accordingly on the 3d of March, 1869 (15 Stat., 336), passed an act in substance that the said vessels shall now be entitled to the benefit of prize law in the same manner as they would have been had the district court for the eastern district of Louisiana been opened and the property taken by said vessels, had been libeled therein; and any court of the United States having admiralty jurisdiction may take and have cognizance of all cases arising out of said capture. In pursuance of that statute a libel was filed in the supreme court of the District of Columbia on the 26th of April, 1869.

While said proceeding was pending in the supreme court of the District, the subject-matter of the proceeding was referred to the determination of arbitrators chosen by the respective parties, and it was agreed that their award should be final upon all questions of law and fact involved in the cases, and that such award might be entered as a rule and decree of the court.

The arbitrators chosen as aforesaid made an award as follows, to wit:

"First. That the capture was not a conjoint operation of the Army and Navy.

"Second. That the 42 vessels whose names were given produced in the capture of the United States.

* * * * * * *

"Fifth. That all this property was lawful prize of war and lawfully subject to condemnation as such.

"Sixth. That in the engagement which resulted in the capture of those ships the entire force of the enemy was superior to the United States ships and vessels engaged."

The United States made a motion to set aside the award controverting all the facts found by the arbitrators; but the court refused to set aside the award, and on the contrary, entered a decree of the court confirming the award. From that decree the United States

took an appeal. After the case came into the Supreme Court of the United States, the Attorney General dismissed the appeal as to the coal and certain vessels, amounting in the aggregate sum of $613,520. In the Supreme Court some of the exceptions to the report of the arbitrators were considered; and it is said "Where the award finds facts it is conclusive; where it finds and announces concrete propositions of law, unmixed with facts, its mistake, if one is made, could have been corrected in the court below, and can be corrected here. Where the proposition is one of mixed law and fact in which the error of law, if there be one, cannot be distinctly shown, the parties must abide by the award." The court says, "A glance at
14 these grounds will show that all of them except the last is an attempt to reopen the question submitted to the arbitrators, because they had decided erroneously questions of pure fact or of law and fact in which the former was so mingled with the latter as to be inseparable."

The court further says, "Having found the captor, the property captured, the name and character of the vessel engaged in it, and the nature of the capture, the only question open was the character of the captured property." The court concluded that "It does not appear, therefore, that in holding these vessels liable to capture in condemnation as lawful prizes of war the arbitrators violated any principle of prize law; but it is quite clear that in awarding the value of these vessels to the captors as prize, and in addition 40 per cent. that value for salvage, they did violate law and justice." The last of the opinion has reference to certain vessels which belonged to certain loyal owners which were delivered to them, and upon which the decree allowed military salvage. That portion of the decree was held to be erroneous by the Supreme Court, and was therefore reversed.

The finding of the arbitrators and the court below that the force of the enemy was superior to the force of the United States ships and vessels was accepted as true by the Supreme Court, and, therefore, no question was made as to whether the superiority of force was to be determined by the force on board the ships of the enemy or might include, as a force of the enemy's ships, the forts and batteries on land.

From the well-known facts of history, it must be assumed that the force which was overcome by Admiral Farragut in the capture of the prizes was superior because of the forts and batteries on shore; and that in making the award and entry of the decree the force of such forts and batteries were included in calculating the force of the enemy employed in the engagement.

The decision and decree of the district court supports the contention made by the counsel for the claimant; but the decision of Supreme Court did not reach the question at issue in this case, for the reason that it was not properly before the court at the time the case was decided, having been eliminated by the withdrawal of the appeal as to the prize vessels affected by that question, and the further reason that the fourth finding of the award and the decree was upon a question of fact which the Supreme Court by its reason-

ing held to be conclusive and not the subject of inquiry in the appellate court.

The case of *Porter v. The United States* (106 U. S. R., 607) does not affect the question involved in this case. In that case a decree had been entered in the district court of the District of Columbia upon the legal theory that, in estimating the force of the enemy, the force of "batteries and other adjuncts" might be included in the force of the enemy in determining the rights of the capturing or destroying vessels. That decree, as it is said in the brief of counsel for the claimant, was reversed on other grounds in general term of the district court. On the appeal of the case to the Supreme Court the only question decided is as to the rights of the claimants to bounty under the act upon which it is claimed in this proceeding. That case involved the right of bounty where the destruction was the result of combined efforts of the land and naval forces acting in conjunction with each other. It was held, in substance, by the Supreme Court that bounty was not allowed by the act of Congress of June 30, 1864, c. 174, where the vessels of the enemy were during the rebellion destroyed by the combined action of the sea and land forces of the United States.

The court says:

"No pecuniary reward is conferred for anything taken or destroyed by the navy when it acts in conjunction with the army in the capture of a fortified position of the enemy, though the meritorious services and gallant conduct of its officers and men may justly entitle them to honorable mention in the history of the country."

The same doctrine is enunciated in the case of the *Siren*. (13 Wall., 389.)

In the case of the *Selman* (21 Fed. Cases, p. 1045), cited by claimants, the question discussed and decided was as to the right of a certain ship to share in the distribution of the prize—it being within what is called signal distance. Although that question is very ably treated by the learned judge in the opinion, it sheds but little light, if any, upon the question involved in this case. There was no controversy in that proceeding as to whether the capturing force was inferior or superior to the captured vessels. The only thing which is said in the opinion which can be utilized as indicative of the proper construction of the statute is that it is said by the court: "In cases arising under this part of the statute, it is held that the object of the legislature was to encourage personal gallantry and exertion, and constructive captures are, as a general rule, excluded from sharing in this bounty, although under the same statutes and concerning the same vessels they may come in as takers of the prize itself." So it is said in this case, by counsel for claimant, that the policy of the legislature was to encourage heroism and personal courage in the naval service of the United
15 States, and that where a condition of great danger is braved and overcome that the force of that condition and danger may be included within what is technically known as the force of the vessel. That is an argument in favor of the construction con-

tended for by the claimant, and in a doubtful case growing out of the ambiguity of the law it should be entitled to forceful respect.

In the case of the *Cherokee* decided in the district court of Massachusetts (5 Fed. Cases, p. 550) involving a controversy as to who was entitled to share, and not as to whether the capturing vessels were of superior or inferior force; and although the case is very elaborately discussed in the opinion of the learned judge, as it did not involve the issue in this case, nothing is said tending to guide the court in the construction of the statute under consideration. It may be regarded as remarkable that in many cases coming within prize jurisdiction after the passage of the act of 1864, the question of inferior and superior force of respective fleets has not been discussed and decided, but so it is.

We have carefully examined the decisions cited by counsel for the claimant in the oral argument, but do not find that they maintain the theory of construction upon which the demand for the larger amount of the statute is claimed.

Aside from the decision and decree of the district court of the District of Columbia, founded on the award of an arbitration, we are without express authority upon the proper construction of the statutes upon the question at issue in this proceeding, and must therefore subject to that decision determine for ourselves our duty in the premises.

The findings show that the force of the vessels of the United States were superior to those of the enemy, disjoined from the force arising from forts and batteries on the shore of Manila bay and torpedoes and mines within the waters of the bay; but if to the force of the Spanish vessels there be added the belligerent power of the forts, batteries, torpedoes, and mines, as a part of the condition arising from their environment, the force of the Spanish vessels was superior to the force of the vessels of the United States. The statute under which the claim is made provides "that a bounty shall be paid by the United States for each person on board any vessel or vessels of war belonging to an enemy at the commencement of an engagement which is sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States, or which it may be necessary to destroy in consequence of the injuries sustained in action, of $100 if the enemy's vessel was of inferior force, and $200 if of equal or superior force, to be divided among the officers and crew in the same manner as prize money."

The question arising upon the statute is as to what is meant by the term, "if the enemy's vessel was of inferior, * * * if of equal or superior force." Is the force contemplated by the statute such force only as is necessarily incident to the men employed upon the vessel, and to the force of the vessel arising from its construction, its armament, equipment, and development as an instrumentality of war? It will be seen that the force specified by the terms of the law is the force of "the enemy's vessel," thereby in terms precluding from the consideration of force the environment of power which may surround the vessel, but forming no necessary part or portion of it. The statute under consideration is to receive

by the court such a construction as its terms necessarily import and require. It is not a question of what might be called unwritten law, but a question of purely statutory construction, and the intent of the legislature must be deduced from the terms employed in the phraseology and words of the statute. Courts have no power other than the interpretation of the law as in their judgment it exists. Questions of policy addressing themselves to other branches of the Government are not incident to the judiciary. They have no policy and no authority save and except the declaration and application of the law as in their judgment it may seem to exist. Congress have passed the statute and defined its purposes in the express averment of words. Courts are constrained to follow the import of those words in the determination of the rights of parties and of the Government. In doubtful cases arising from ambiguous language courts will inquire into surrounding circumstances, having in view the history of the times and the condition intended to be affected by the law in coming to a conclusion as to its proper construction. But unambiguous words, importing in and of themselves the purpose and will of the legislature, must be permitted to perform their legitimate functions in the development and ascertainment of that will. Congress intended, by the act of 1864, to reward, as has been said, personal bravery and gallant encounter, but it does not follow from that that they intended beyond what they have expressed in the words of the law.

No cases have arisen upon the statute involved in this proceeding except the cases referred to, and none can arise hereafter, as Congress on March 3, 1899 (30 Stat. L., 1007), repealed all the provisions of law "authorizing the distribution among captors of the whole or any portion of the proceeds of vessels, or any property hereafter captured, condemned as prize, or providing for the payment of bounty for the sinking or destruction of vessels of the enemy hereafter occurring in time of war."

From this view of the law, the court determines that the claimant is entitled to recover on the basis of fact, that excluding the batteries, torpedoes, and mines, the force of the vessels of the Spanish fleet was inferior to the force of the American vessels, and that therefore the claim comes within that clause of the law which allows the sum of $100 for each person on board the vessels sunk and destroyed, and a judgment is hereby ordered on that theory for the sum of nine thousand five hundred and seventy dollars.

16 V.—*Judgment.*

Filed February 26, 1900.

GEORGE DEWEY
vs.
THE UNITED STATES. } No. 51. Naval Bounty.

At a Court of Claims held in the city of Washington on the 26th day of February, 1900, judgment was ordered to be entered up as follows:

The court, on due consideration of the premises, find for the claimant, and do order, adjudge, and decree that the claimant, George Dewey, do have and recover of and from the United States the sum of nine thousand five hundred and seventy dollars ($9,570).

BY THE COURT.

17 VI.—*Motion for Appeal.*

Filed March 1, 1900.

In the Court of Claims, Term 1899–1900.

GEORGE DEWEY
v.
THE UNITED STATES. } No. 51. Naval Bounty.

Motion for appeal.

Now comes George Dewey, the claimant herein, by his attorneys, H. A. Herbert and Benjamin Micou, and prays an appeal to the Supreme Court of the United States from the judgment of this court entered on the 26th day of February, 1900, so far as the same is adverse to his claim, and the claimant moves the court for an allowance of this appeal.

HERBERT & MICOU,
Attorneys for Claimant.
CHARLES & WILLIAM B. KING,
Counsel.

18 VII.—*Allowance of Appeal.*

GEORGE DEWEY
vs.
THE UNITED STATES. } No. 51. Naval Bounty.

At a Court of Claims held in the city of Washington on the 1st day of March, 1900, an application was presented for the allowance of an appeal by the claimant filed of this date, and it was ordered that the appeal be allowed as prayed for.

BY THE COURT.

19 In the Court of Claims.

GEORGE DEWEY
vs.
THE UNITED STATES. } No. 51. Naval Bounty.

I, John Randolph, assistant clerk of the Court of Claims, do hereby certify that the foregoing are true transcripts of the pleadings in the above-entitled cause, of the findings of fact by the court, and the conclusion of law thereon, of the opinion of the court, of

the judgment of the court, of the application for and allowance of an appeal to the Supreme Court of the United States.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Washington, this 2d day of March, A. D. 1900.

[Seal of Court of Claims.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Endorsed on cover: File No., 17,660. Court of Claims. Term No., 546. George Dewey, appellant, *vs.* The United States. Filed March 2nd, 1900.